

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

WP(C).No. 30116 of 2007(I)

PETITIONER:

**M.D. JOSE, MADASSERY VEEDU,
KALLOOR P.O., THRISSUR.**

**BY ADV. SRI.V.V.NANDAGOPAL NAMBIAR
SMT.PREEJA. P.VIJAYAN**

RESPONDENTS:

- 1. THE DISTRICT COLLECTOR,
THRISSUR.**
- 2. THE R.D.O.,
THRISSUR.**
- 3. THE JOINT DIRECTOR (AGRICULTURE),
THRISSUR.**
- 4. THE GEOLOGIST,
THRISSUR.**

BY GOVERNMENT PLEADER SRI. I.V. PRAMOD.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24/10/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

ANTONY DOMINIC, J.

WP(C) No. 30116 of 2007

Dated, this the 24th day of October, 2007

J U D G M E N T

The prayer made in this writ petition is to direct the respondents to grant sand dealers licence as per Ext.P1. Ext.P1 is an application made by the petitioner in terms of the Kerala Minor Mineral Concession Rules for sand dealers licence. On receipt of the same, the 4th respondent replied by Ext.P2 informing the petitioner that in terms of the directions of the District Collector, before licence is granted, the place intended for storage of ordinary sand should be inspected by the RDO, Geologist and Joint Director (Agriculture). The said direction is contained the communication from the 1st respondent District Collector, which is produced as Ext.P3.

2. Petitioner contends that there is no enabling provision in the Rules authorising the District Collector to impose a condition as contained in Ext.P3 and as reiterated by the 4th respondent in Ext.P2. I have gone through the provisions contained in the Minor Mineral Concession Rules, in particular, Rule 48 B. This Rule provides the form and manner of application for licence and its renewal. No where the Rule provides any provision enabling the

District Collector to impose a condition, as is now sought to be done vide Ext.P3. Even otherwise, the discretion conferred on a statutory authority cannot be filtered by any other authority in the absence of an enabling provision in the Rule itself. In that view of the matter, I am of the view that the authority to whom application is made should consider the application of the petitioner irrespective of any directions that may have been issued by the 1st respondent. This view also finds support from the judgment of this Court in WP(C) No. 22269/06, wherein the context of a ban imposed by the District Collector, this Court has held that the District Collector had no such power and therefore such ban ordered by him was held to be unauthorised.

3. In the view of the above discussion, I dispose of the writ petition directing that the 4th respondent shall consider Ext.P1 application of the petitioner on merits and pass orders thereon in accordance with law.

(ANTONY DOMINIC, JUDGE)